

## PATENT COOPERATION TREATY

**PCT**

REC'D 16 MAR 2006

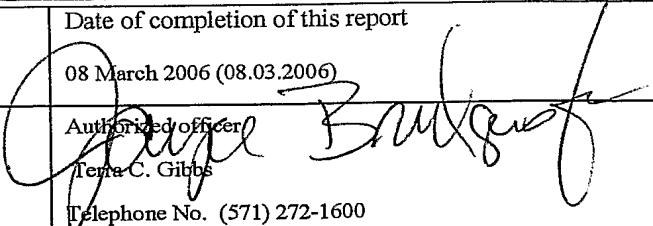
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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

## (PCT Article 36 and Rule 70)

Applicant's or agent's file reference L0461.70154	FOR FURTHER ACTION		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US03/41189	International filing date (day/month/year) 22 December 2003 (22.12.2003)	Priority date (day/month/year) 22 December 2003 (22.12.2003)	
International Patent Classification (IPC) or national classification and IPC IPC: C12Q 1/68( 2006.01);A01N 43/04( 2006.01);C07H 21/04( 2006.01);A61K 31/07( 2006.01) USPC: 424/134.1;435/6,91.1,325,375;536/23.1,24.3,24.33,24.5;514/44			
Applicant LUDWIG INSTITUTE FOR CANCER RESEARCH			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of ___ sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li>I <input checked="" type="checkbox"/> Basis of the report</li> <li>II <input type="checkbox"/> Priority</li> <li>III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability</li> <li>IV <input type="checkbox"/> Lack of unity of invention</li> <li>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li>VI <input type="checkbox"/> Certain documents cited</li> <li>VII <input type="checkbox"/> Certain defects in the international application</li> <li>VIII <input type="checkbox"/> Certain observations on the international application</li> </ul>			

Date of submission of the demand 20 July 2005 (20.07.2005)	Date of completion of this report 08 March 2006 (08.03.2006)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/ US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	 Authorized officer Terri C. Gibbs Telephone No. (571) 272-1600

Form PCT/IPEA/409 (cover sheet)(July 1998)

**I. Basis of the report**

## 1. With regard to the elements of the international application:\*

the international application as originally filed.  
 the description:

pages 1-42 as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

the claims:  
 pages 43-47, as originally filed  
 pages NONE, as amended (together with any statement) under Article 19  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

the drawings:  
 pages 1-9, as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

the sequence listing part of the description:  
 pages 1-4, as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_.

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  
 These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
 the language of publication of the international application (under Rule 48.3(b)).  
 the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

contained in the international application in printed form.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority in written form.  
 furnished subsequently to this Authority in computer readable form.  
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4.  The amendments have resulted in the cancellation of:

the description, pages NONE  
 the claims, Nos. NONE  
 the drawings, sheets/fig NONE

5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/US03/41189**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>2-6, 16-20, 33-37 and 46</u>	YES
	Claims <u>1, 7-15, 21-32 and 38-54</u>	NO
Inventive Step (IS)	Claims <u>2-6, 16-20, 33-37 and 46</u>	YES
	Claims <u>1, 7-15, 21-32 and 38-54</u>	NO
Industrial Applicability (IA)	Claims <u>1-54</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Please See Continuation Sheet

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/US03/41189**Supplemental Box**  
(To be used when the space in any of the preceding boxes is not sufficient)**V. 2. Citations and Explanations:**

Claims 1-54 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

Claims 3-6, 17, 19, 20, 34, 36, 37, and 46 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a method for inducing apoptosis in a cell comprising administering an siRNA that reduces the expression or activity of a mitotic checkpoint molecule, wherein the siRNA is BubR1, Bub3, or CENP-E.

Claims 1, 7-9, 11-15, 21-23, 25-32, 38-40, 42-45, 47-50, and 52-54 lack novelty under PCT Article 33(2) as being anticipated by Chan et al. Chan et al. disclose a method for inducing apoptosis in a cell comprising administering an antibody that reduces the expression or activity of a mitotic checkpoint molecule, wherein the antibody is BubR1 or Bub3 (see Figures 1-7).

Applicant's arguments filed December 14, 2005 have been fully considered and are found persuasive in part. In response to the holding of lack of novelty as being anticipated by Chan et al., Applicants traverse on the grounds that the Chan reference does not disclose that either anti-CENP-E antibodies or anti-hBUBR1 antibodies alone increase apoptosis. Contrary to Applicant's traversal, the instant claims recite "comprising" language. The term "comprising" is open language. Therefore, the claims are broad and do not require that the anti-CENP-E antibodies or the anti-hBUBR1 antibodies have to act alone in increasing apoptosis.

Applicants also argue that Chan et al. did not show, describe, or suggest any effect of anti-CENP-E antibodies or anti-hBUBR1 antibodies on cancer or hyperproliferative disorder cells. This argument has been fully considered and is found persuasive. Chan do not describe or suggest any effect of anti-CENP-E antibodies or anti-hBUBR1 antibodies on cancer or hyperproliferative disease in a subject.

Applicants also argue that Chan et al. does not describe the use of anti-Bub3 antibodies to increase apoptosis, but instead, only use anti-Bub3 antibodies for analyzing Bub3 expression on Western blots. This argument has been fully considered and is found persuasive as well. Chan only describe the use of anti-Bub3 antibodies for analyzing Bub3 expression on Western blots.

Claims 1, 8, 10, 13, 15, 21, 22, 24, 27, 29-32, 38, 39, 41, 44, 47-49, 51, and 54 lack novelty under PCT Article 33(2) as

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
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(To be used when the space in any of the preceding boxes is not sufficient)

being anticipated by Gorbsky et al. Gorbsky et al. disclose a method for inducing apoptosis in a cell comprising administering an antibody that reduces the expression or activity of a mitotic checkpoint molecule, wherein the antibody is Mad2 (see Figures 1-11).

Applicants arguments filed December 14, 2005 have been fully considered and are found persuasive in part. In response to the holding of lack of novelty as being anticipated by Gorbsky et al., Applicants traverse on the grounds that first, the Gorbsky reference showed that microinjection of anti-Mad2 antibodies into two kinds of eukaryotic cells led to premature anaphase onset, but does not describe or suggest an effect of anti-Mad2 antibodies on apoptosis. Second, Applicants argue that the Gorbsky reference does not describe or suggest any effect of anti-Mad2 antibodies on cancer or a hyperproliferative disorder. Regarding Applicant's first traversal, although the Gorbsky reference does not describe or suggest an effect on anti-Mad2 antibodies on apoptosis, it is noted that this effect is inherent to the kangaroo kidney cells microinjected with the anti-Mad2 antibody. Therefore, absent evidence to the contrary, the kangaroo kidney cells microinjected with the anti-Mad2 antibody inherently increased apoptosis. Regarding Applicant's second traversal, the Examiner agrees that the Gorbsky reference does not describe or suggest any effect of anti-Mad2 antibodies on cancer or a hyperproliferative disorder.